

Article - Public Safety

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§13A–916.

(a) (1) In the case of a person determined under this title to be presently suffering from a mental disease or defect rendering the person mentally incompetent to the extent that the person is unable to understand the nature of the proceedings against that person or to conduct or cooperate intelligently in the defense of the case, the general court–martial convening authority for that person shall commit the person to the custody of the State Attorney General.

(2) (i) The State Attorney General shall take action in accordance with the State law applicable to persons incompetent to stand trial.

(ii) If at the end of the period for hospitalization provided for in the State law applicable to persons incompetent to stand trial it is determined that the committed person’s mental condition has not so improved as to allow the trial to proceed, action shall be taken in accordance with the State law applicable to persons incompetent to stand trial.

(3) (i) When the director of a facility in which a person is hospitalized under paragraph (2) of this subsection determines that the person has recovered to such an extent that the person is able to understand the nature of the proceedings against the person and to conduct or cooperate intelligently in the defense of the case, the director shall promptly transmit a notification of that determination to the State Attorney General, the general court–martial convening authority for the person, and the person’s counsel.

(ii) 1. On receipt of a notification, the general court–martial convening authority shall promptly take custody of the person unless the person covered by the notification is no longer subject to this title.

2. If the person is no longer subject to this title, the State Attorney General shall take any action within the authority of the State Attorney General that the State Attorney General considers appropriate regarding the person.

(iii) The director of the facility may retain custody of the person for not more than 30 days after transmitting the notifications required by subparagraph (i) of this paragraph.

(4) (i) Subject to subparagraph (ii) of this paragraph, in the application of the State law applicable to persons incompetent to stand trial to a case under this subsection, references to the court that ordered the commitment of a person, and to the clerk of such court, shall be deemed to refer to the general court-martial convening authority for that person.

(ii) If the person is no longer subject to this title at a time relevant to the application of such law to the person, the State trial court with felony jurisdiction in the county where the person is hospitalized or otherwise may be found shall be considered as the court that ordered the commitment of the person.

(b) (1) If a person is found by a court-martial not guilty only by reason of lack of mental responsibility, the person shall be committed to a suitable facility until the person is eligible for release in accordance with this section.

(2) The court-martial shall conduct a hearing on the mental condition in accordance with the State law applicable to persons incompetent to stand trial.

(3) A report of the results of the hearing shall be made to the general court-martial convening authority for the person.

(4) If the court-martial fails to find by the standard specified in the State law applicable to persons incompetent to stand trial that the person's release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect:

(i) the general court-martial convening authority may commit the person to the custody of the State Attorney General; and

(ii) the State Attorney General shall take action in accordance with the State law applicable to persons incompetent to stand trial.

(5) The State law applicable to persons incompetent to stand trial shall apply in the case of a person hospitalized pursuant to paragraph (4)(ii) of this subsection, except that the state trial court with felony jurisdiction in the county where the person is hospitalized shall be considered as the court that ordered the person's commitment.

(c) (1) Except as otherwise provided in this subsection and in subsection (d)(1) of this section, the State law most closely comparable to 18 U.S.C. 4247(d) shall apply in the administration of this article.

(2) In the application of the State law most closely comparable to 18 U.S.C. 4247(d) to hearings conducted by a court-martial under this section or by, or by order of, a general court-martial convening authority under this section, the reference in that article to article 3006A of such title does not apply.

(d) (1) Title 3 of the Criminal Procedure Article applies according to the provisions of this section notwithstanding 18 U.S.C. 4247(j).

(2) If the status of a person as described in § 13A-102 of this title terminates while the person is, pursuant to this section, in the custody of the State Attorney General, hospitalized, or on conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, the provisions of this section establishing requirements and procedures regarding a person no longer subject to this title shall continue to apply to that person notwithstanding the change of status.

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